Environmental Assessment

For

a Candidate Conservation Agreement

for the

Lesser Prairie-chicken (*Tympanuchus pallidicinctus*) and

Sand Dune Lizard (Sceloporus arenicolus)

in New Mexico

DOI-BLM- NM- P010- 2011- 57 – EA

Pecos District Office

Roswell, New Mexico

November 2010

I. Background

A. Introduction

The lesser prairie-chicken (*Tympanuchus pallidicinctus*) is a prairie grouse species native to the southern Great Plains, including parts of Colorado, Kansas, New Mexico, Oklahoma, and Texas. The sand dune lizard (Sceloporus arenicolus) is a lizard species native to a small area of southeastern New Mexico and west Texas. As candidate species, both have been ruled warranted for listing as threatened or endangered by the U.S. Fish and Wildlife Service but precluded from listing due to other priorities.

In January 2003, the New Mexico Lesser Prairie-Chicken/Sand Dune Lizard Working Group was formed to address conservation and management activities for the two candidate species in Southeastern New Mexico, the Lesser Prairie-Chicken (*Tympanuchus pallidicinctus*) (LPC) and the sand dune lizard (*Sceloporus arenicolus*) (SDL). Composed of local, State and Federal officials, along with private and commercial stakeholders this group worked for 2.5 years and published the "Collaborative Conservation Strategies for the Lesser Prairie-Chicken and Sand Dune Lizard in New Mexico" (Strategy) in August 2005 (New Mexico LPC/SDL Working Group 2005). The Strategy provided guidance in the development of BLM's Special Status Species Resource Management Plan Amendment (RMPA) which also addresses the concerns and future management of the LPC and SDL habitats (BLM 2008). Both the Strategy and RMPA prescribe active cooperation among all stakeholders to reduce and/or eliminate threats to these species in New Mexico. As an outcome, the land use prescriptions contained in the RMPA now serve as baseline mitigation (for both species) to those operating on Federal lands or minerals.

While species are in candidate status the U.S. Fish and Wildlife Service (FWS) works with state and private partners to develop Candidate Conservation Agreements with Assurances (CCAAs). These agreements are between FWS and private landowners or state agencies.

Under the ESA federal agencies are bound to consult with FWS in the event a species is listed. Therefore, federal land management agencies and those who operate on public and federal minerals cannot participate in CCAAs. Federal agencies and those who operate on public land can participate in Candidate Conservation Agreements. For a detail description of CCAAs and CCAs process, see Appendix 1. For an example of a CCA, see Appendix 2.

Should either species be listed as threatened or endangered under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. § 1531, et seq.), the listing triggers both a regulatory and a conservation responsibility for Federal, State, and private landowners. These responsibilities stem from Section 9 of the ESA that prohibits "take" (i.e., harass, harm, pursue, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct) of listed species. Along with the Section 9 prohibitions, Federal agencies must ensure that their actions will not jeopardize the continued existence of the listed species.

B. Purpose and Need

The purpose of the proposed action is to set up a mechanism to conserve LPC and SDL habitats while the species are still in candidate status. The need for the action is the requirement that the BLM manage sensitive species not federally listed as threatened or endangered in order to prevent or reduce the need to list them as threatened or endangered in the future, in accordance with BLM Manual 6840.

The purpose contemplates the following:

- Developing, coordinating, and implementing conservation actions to reduce and/or eliminate known threats to the LPC and SDL within the current and historic range of both species in New Mexico on Federal lands and/or minerals;
- Supporting ongoing efforts to re-establish and maintain viable populations of both species in currently occupied and suitable habitats;
- Encouraging development and protection of suitable LPC and SDL habitat by giving Participating Cooperators incentives to implement specific conservation measures.

For several years the BLM has been working with the FWS to develop a Candidate Conservation Agreement. Under this CCA, Federal leasees, operators, or permittees that have joined (by signing a Certificate of Participation) would received a high degree of certainty that additional restrictions would not be placed on their otherwise legal activities.

A companion document (CCAA) has been developed by the FWS to provide an incentive for voluntary conservation of species-at-risk on non-Federal lands. Under the FWS's CCAA, a property owner voluntarily commits to implement specific conservation measures on non-Federal lands for species covered by the agreement. Under the CCAA, if either species is listed, then private landowners receive Assurances that additional restrictions would not be placed on their otherwise legal activities.

C. Conformance with Land Use Planning

The proposed action is consistent with the management actions and prescriptions identified in the 1997 Roswell Resource Management Plan (RMP), and the 2008 Special Status Species RMP Amendment. This document is tiered to and incorporates by reference the 1997 Roswell RMP and the 2008 RMPA. This Environmental Assessment (EA) is also consistent with the FWS EA and Finding of No Significant Impact for the CCA/CCAA signed on December 5, 2008.

D. Relationships to Statutes, Regulations, or Other Plans

The Proposed Action and No Action Alternative are consistent with the Federal Land Policy and Management Act of 1976; the Clean Water Act, as amended; and the Endangered Species Act, as amended. The leasing of federal oil and gas is authorized by the Mineral Leasing Act of 1920, as amended, and supplemented by other Acts. The Proposed Action and No Action Alternative are consistent with the laws and regulations in 43 CFR 3100. There are no known inconsistencies between the proposed action and alternatives described in this document and officially approved and adopted resource related plans of other federal agencies, State and local governments, and Indian tribes.

II. Proposed Action and Alternatives

A. Description of the Proposed Action

The Proposed Action is to implement a Candidate Conservation Agreement (CCA) and its associated Certificates of Participation (CPs) under the CCA. This CCA, as individually agreed to in each CP, addresses what additional mitigation measures (beyond the RMPA) a participating cooperator has agreed to implement on public lands and/or minerals when they apply for permits to conduct individual actions (drilling permits, R/Ws, grazing, seismic activity, etc). CPs would be a joint agreement between the BLM, FWS, the Center for Excellence in Hazardous Materials Management (CEHMM), and participating cooperators. CEHMM would issue CPs to participating cooperators who agree to enter into a CCA. Participating cooperators would agree to assist in protecting and enhancing existing populations and habitats, restoring degraded habitat, creating new habitat, augmenting existing populations of LPC, restoring historic populations, or undertaking other activities described in their CP to improve the status of the LPC and SDL.

CEHMM would also be responsible for implementing, monitoring, and reporting on projects completed with CCA funds. For funds contributed by participating cooperators, the BLM and FWS would work cooperatively to determine which habitat improvement projects are of the highest priority to benefit one or both of the species habitats (see current Project Ranking Sheet – Appendix A and Project Proposal Form – Appendix B). The highest priority conservation measures needed to improve habitat and reduce risk to either species (regardless of land ownership) would be determined by an implementation committee made up of BLM and FWS wildlife biologists with input from CEHMM.

Habitat restoration projects (completed using funds generated through this CCA/CCAA effort) on public and non-federal land would be subject to analysis under the National Environmental Policy Act (NEPA). In addition to the NEPA process, participating landowners would agree to allow the implementation of conservation measures, including written permission to do so. As

new information or data becomes available, conservation measures would be modified on new CPs through adaptive management in order to achieve greater species conservation.

The management activities included in the CP would reduce and/or eliminate threats to the species. While each CP would be negotiated on a case-by-case basis, there are several standard mitigation measures that are included in each CP. Grazing permittees/lessees operating on public land would be required to implement conservation measures agreed to in their CP. Participating cooperators operating on federal mineral leases would also be required to implement conservation measures agreed to in their CP, as well as to contribute funds to accomplish conservation measures within the range of the species in New Mexico. While it would not be necessary to conduct all conservation measures on every property enrolled under the CCA, approved conservation measures would be undertaken as necessary to reduce and/or eliminate a particular threat. See Appendix 2 for a sample Certificate of Participation for a participating cooperator operating on Federal minerals under the Candidate Conservation Agreement.

B. No Action Alternative

Under the No Action Alternative, the BLM would not enter into a Certificate of Participation with willing participants. These participating cooperators would have little economic or legal incentive to voluntarily initiate conservation or management activities to benefit the LPC and SDL. In addition, conservation measures above and beyond those directed by existing Federal, State, and local laws, policies, or regulations would not likely be implemented. The conservation and management of SDL and LPC populations on BLM lands would continue to be guided by those prescriptions identified in the RMPA (BLM 2008).

III. Affected Environment and Environmental Impacts

A. General Setting

The CCA would cover all Federal lands currently occupied or potentially occupied by the LPC or SDL in New Mexico. This includes all Federal surface or Federal minerals (split estate) within portions of the counties of Lea, Eddy, DeBaca, Curry, Roosevelt, Quay, and Chaves (Figure 1). Three major land resources areas (MLRA) occur in this portion of the state; Central Pecos Valleys and Plains, Southern High Plains, and Chihuahuan Desert Grassland (USDA 2006). If NEPA analysis has not been conducted for a specific habitat treatment or project occurring on Federal lands and paid for with funds from CEHMM, an analysis will be completed before the project is completed. Also, NEPA analysis will be conducted for all actions proposed by leaseholders and permittees, as required by law.

In southeastern New Mexico, LPC habitat occurs in sand shinnery communities dominated by shinnery oak and several species of bluestem, grama, and dropseed grasses. In east-central New

Mexico, where shinnery oak does not occur, the shrub component of LPC habitat consists largely of sand sagebrush. The SDL occurs only in the microhabitat of dune "blowouts" (open, low lying areas between active dunes) in areas dominated by shinnery oak and scattered sand sagebrush. The SDL is not found at sites lacking shinnery dune habitat, including shinnery flats, except during dispersal (New Mexico LPC/SDL Working Group 2005).

Resources considered for analysis under this EA included soils, vegetation, wildlife (listed, proposed, and candidate species), land use and ownership, air quality, noise pollution, water resources, cultural resources, and socioeconomics. Of these, the resources selected for further evaluation include soils, vegetation, wildlife (listed, proposed, and candidate species), and land use and ownership. The remaining resources were excluded from further consideration because the proposed actions would be expected to have either no effect to these resources or the effects to these resources would be extremely negligible.

B. Affected Resources

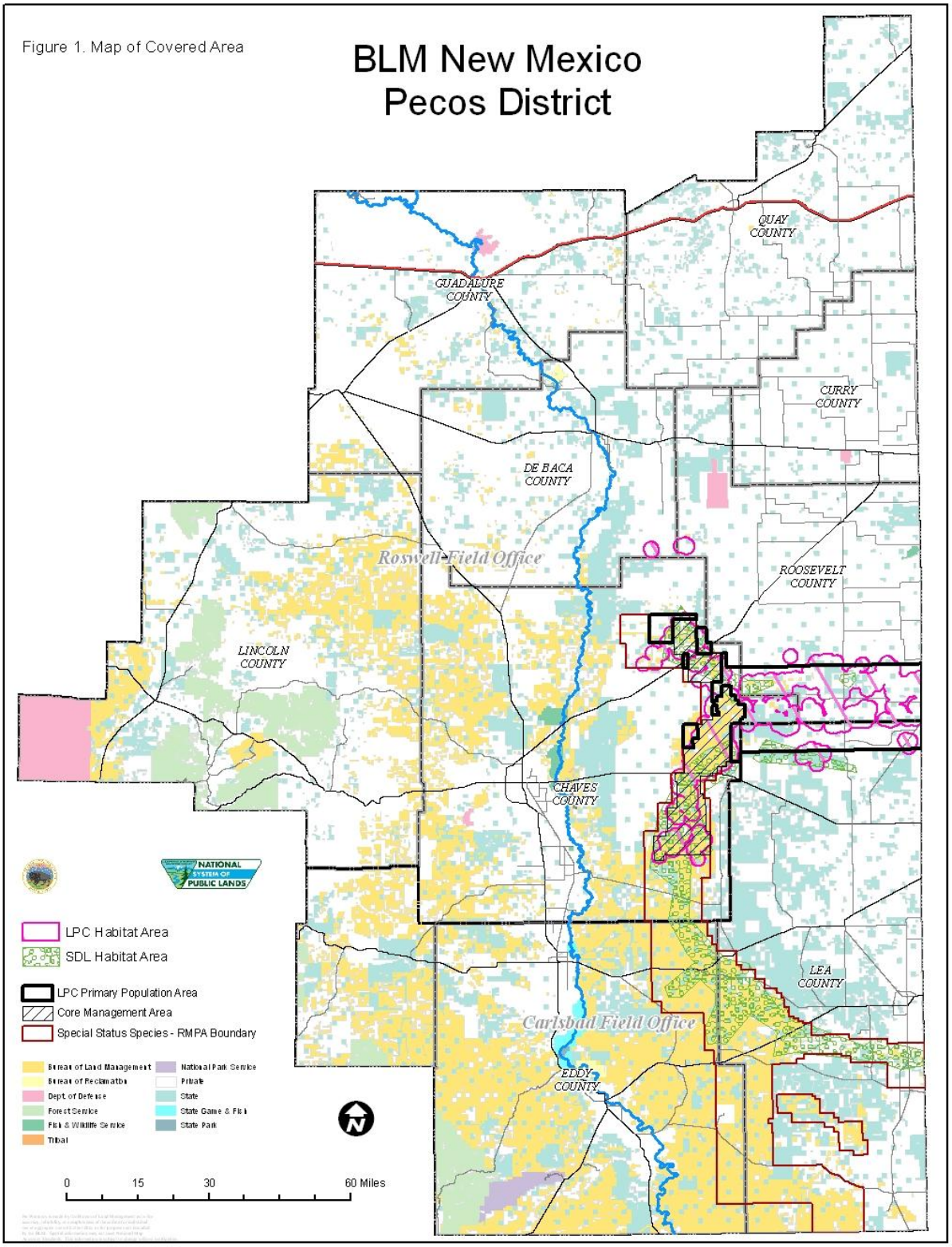
The following resources or values are not present or would not be affected by the Proposed Action: Air Quality, Cultural Resources, Floodplains, Prime or Unique Farmland, Minority/Low Income Populations, Hazardous or Solid Wastes, Recreation, Riparian/Wetland Areas, Visual Resource Management, Watershed Hydrology, Water Quality, Wild Horse and Burros, Wild and Scenic Rivers, Wilderness or Wilderness Study Areas, and Climate Change. If NEPA analysis has not been conducted for a specific project or treatment, analysis will be completed prior to approval of any project or treatment. Prior to authorizing ground disturbing projects, a Class III Cultural Survey must be completed ensuring cultural resources will not be affected. Affected resources and the impacts resulting from the proposed action of implementing the CCA and accompanying CPs are described below.

1. Soils

Affected Environment

The soils within the covered area can generally be described as mostly level with sandy textures and high concentrations of calcium carbonate in the substratum. These sandy soils are highly susceptible to wind erosion. Wind action has produced an undulating topography with frequent dunes. These soils are primarily Aridisols, although small portions of the covered area contain Entisols and Mollisols. Aridisols are calcium carbonate-containing soils found in arid regions. They are characterized by being dry most of the year and having limited leaching. Aridisols contain subsurface horizons in which clays, calcium carbonate, silica, salts, and/or gypsum have accumulated. They are used mainly for range, wildlife, and recreation.

Figure 1. Map of Covered Area



Environmental Impacts

Under the Proposed Action, conservation measures would be implemented on lands enrolled under the conservation agreements that would minimize impacts from land-use activities to soils. There would be an opportunity to manage and protect soil resources from a landscape perspective within the covered area. With input from the BLM and FWS, CEHMM would develop CPs that would include conservation measures such as directing surface disturbing activities to those areas containing soils unsuitable for use by the SDL or LPC. Participants would also be required to protect or conserve soils through restoration, rehabilitation, erosion control, or any other means above and beyond that which is required under current regulations and BLM land-use management requirements. The measures outlined in a CP would result in fewer impacts to soils and improvements to soil conditions by minimizing the number of well pads and associated development within oil and gas leases, managing livestock grazing to reduce impacts, limiting vegetation treatments, or restoring native plant communities. CEHMM, BLM, and the FWS would work with participants to create Plans of Development (POD) that minimize habitat fragmentation while continuing to provide sufficient access and use of the land.

Under the No Action Alternative, soils management and protection would continue to be guided by existing regulatory mechanisms. The BLM would continue to emphasize prevention or avoidance of further degradation of soil resources on lands they manage. It is anticipated that impacts to soils from energy development activities, recreational use, livestock grazing, and agricultural activities within the covered area would continue at current levels. These impacts would continue to be managed on a case-by-case basis.

2. Vegetation

Affected Environment

The covered area supports a diversity of plant communities adapted to life in the arid climate of the southwest. These communities are affected by a number of factors including soil composition, topography, temperature, precipitation, elevation, and land management practices. Vegetation within the covered area can be classified into four broad communities; shinnery oak or sand sagebrush dominated shrublands, honey mesquite shrublands, grasslands, and Conservation Reserve Program (CRP) or agricultural fields (Neville et al. 2005).

The shinnery oak or sand sagebrush dominated shrublands occur on nearly level plains to semi-stabilized dunes up to 10m (32 feet) in height. Relative shrub to grass cover may range from 60-80% shrubs to 5-30% grasses, as estimated from ocular measurements of vegetative cover. This plant community is typically found on well-drained sandy soils. Common species may be shinnery oak (*Quercus havardii*), sand sagebrush (*Artemesia filifolia*), little bluestem (*Schizachyrium scoparium*), sand bluestem (*Andropogon hallii*), soapweed yucca (*Yucca glauca*), purple threeawn (*Aristida purpurea*), hairy grama (*Bouteloua hirsuta*), black grama

(*Bouteloua eriopoda*), fall witchgrass (*Digitaria cognata*), New Mexico needlegrass (*Stipa neomexicana*), and dropseeds (*Sporobolus* spp.).

The honey-mesquite shrublands typically occur on nearly flat plains, but can also occur in dunelands. Shrub to grass cover ranges from 13-56% shrubs to <5-40% grasses, as estimated from ocular measurements of vegetative cover. This plant community is associated with soils that are deep, well-drained, fine, sandy loams on gently sloping alluvial material. Common species may be honey mesquite (*Prosopis glandulosa*), shin-oak, black grama, blue grama (*Bouteloua gracilis*), bush muhly (*Muhlenbergia porteri*), soapweed yucca, snakeweed (*Gutierrezia sarothrae*), fourwing saltbush (*Atriplex canescens*), and mesa dropseed (*Sporobolus flexuosus*).

Grasslands occur throughout the covered area in flat and rolling plains interspersed within shin-oak dominated areas. Soils are typically fine and loamy fine sands. These grasslands sometimes form in areas that have been treated by herbicide to remove the woody species. The dominant shrub species is commonly soapweed yucca. Other common species include sand bluestem, giant dropseed (*Sporobolus giganteus*), snakeweed, honey mesquite, tobosa (*Hilaria mutica*), little bluestem, sand sagebrush, catclaw mimosa (*Mimosa aculeaticarpa* var. *biuncifera*), shin-oak, and collegeflower (*Hymenopappus flavescens*).

Agricultural fields within the covered area are typically planted in corn, milo, alfalfa, or cotton. CRP fields are made up of lands previously seeded with either native or non-native grasses and often appear monotypic.

Environmental Impacts

The Proposed Action would result in the implementation of conservation measures aimed at restoring and protecting those plant communities preferred by the LPC and SDL on lands enrolled under CPs. These measures would result in an increase in the amount of habitat available to the SDL and LPC within the covered area. In addition, habitat fragmentation and the direct loss of suitable habitat would be reduced on lands enrolled under the CPs or on other lands that would be treated with contributed funds. Compared to lands not enrolled under one of the conservation agreements, this reduction would be significant. Impacts to vegetation from energy development activities, recreational use, livestock grazing, and agricultural activities would be managed through a comprehensive, landscape level approach. Large, contiguous blocks of suitable habitat would be targeted for improvement under the conservation agreements to provide the greatest benefit to the SDL and LPC. Participating cooperators would have an incentive to protect and manage plant communities and prevent habitat fragmentation for the benefit of the SDL and LPC. This incentive would be the likelihood that their operational activities, on lands enrolled in a CP, would not likely be disrupted in the future if the SDL or LPC was listed under the ESA. Reclamation efforts on abandoned pads, roads, and caliche pits within the covered area would address and reduce fragmentation, restore native habitat, reduce road mortality, and promote SDL and LPC habitats above and beyond that which is currently occurring.

Under the No Action Alternative, vegetation management would continue to be guided through existing regulatory mechanisms. On lands administered by the BLM, the goal of maintaining or improving vegetation with an emphasis on watershed protection and forage for wildlife would continue. Brush control methods such as herbicide application and prescribed fire would continue to be implemented on private, state, and Federal lands under the "Restore New Mexico" initiative to improve vegetative structure for watersheds and wildlife within the covered area. Impacts to vegetation from energy development activities, recreational use, and livestock grazing would continue at current levels. These impacts would be managed on a case-by-case basis. There would continue to be little incentive for Federal leasees, operators, and permittees or private or state landowners to voluntarily protect and manage plant communities and prevent habitat fragmentation for the benefit of the LPC and SDL. Reclamation efforts on abandoned pads, roads, and caliche pits on lands managed by the BLM would continue to reduce habitat fragmentation, restore native habitat, and promote lesser prairie-chicken and dunes sagebrush lizard habitat.

3. Wildlife

Affected Environment

A wide variety of wildlife species utilize the shinnery oak shrublands and grasslands habitats of southeastern New Mexico. According to the RMPA, which covered a portion of the area proposed under the conservation agreements, approximately 31 species of reptiles, 10 species of amphibians, 60 species of birds, and 43 species of mammals are known to occur in this area.

Reptiles and amphibians that may be found within the covered area include species such as the plains leopard frog (*Rana blairi*), ornate box turtle (*Terrapene ornate*), collared lizard (*Crytaphytus collaris*), side-blotched lizard (*Uta stansburana*), six-lined racerunner (*Cnemidophorus sexlineatus*), barking frog (*Hylactophryne augusti*), coachwhip (*Masticophis flagellum*), and western diamondback rattlesnake (*Crotalus atrox*). Common bird species include the Northern Harrier (*Circus cyaneus*), Swainson's Hawk (*Buteo swainsoni*), Golden Eagle (*Aquila chrysaetos*), Mourning Dove (*Zenaida macroura*), Curve-billed Thrasher (*Toxostoma curvirostre*), and Scissor-tailed Flycatcher (*Tyrannus forficatus*). Mammals include the cave myotis (*Myotis velifer*), striped skunk (*Mephitis mephitis*), mountain lion (*Puma concolor*), badger (*Taxidea taxus*), desert pocket mouse (*Perognathus penicillatus*), thirteen-lined ground squirrel (*Spermphilus tridecemlineatus*), and porcupine (*Erethizon dorsatum*).

Hunting is a popular recreational activity within the covered area. Game species of interest include mule deer (*Odocoileus hemionus*), pronghorn (*Antilopcapra americana*), javelina (*Dicotyles tajacu*), scaled quail (*Callipepla squamata*), bobwhite quail (*Colinus virginianus*), desert cottontail (*Sylvilagus audubonii*), and black-tailed jackrabbit (*Lepis californicus*).

Environmental Impacts

The Proposed Action would result in the implementation of conservation measures aimed at protecting and managing the SDL and LPC. CEHMM, with input from the BLM and FWS would develop CPs on lands enrolled under the conservation agreements that would indirectly benefit all wildlife species occupying the shinnery oak shrublands and grasslands preferred by the SDL and LPC. These CPs would include conservation measures such as protecting and enhancing habitat, restoring degraded habitat, creating new habitat, limiting development, treating undesirable vegetation, and developing noise abatement programs. The conservation measures implemented under this alternative would be above and beyond those activities currently being implemented through existing Federal regulations, laws, and policies. Therefore, this alternative would result in additional conservation and protection of all wildlife species within the covered area.

Under the No Action Alternative, wildlife would continue to be impacted at current levels by energy development activities and livestock grazing. These impacts would be indirect and primarily result in habitat fragmentation and habitat degradation. Additional protection would not be afforded wildlife above and beyond what is currently provided through Federal regulations, laws, and policies and plans. Reclamation efforts on abandoned pads, roads, and caliche pits on lands managed by the BLM would continue to reduce habitat fragmentation, restore native habitat, and promote LPC and SDL habitat.

4. Special Status Species

Affected Environment

Federally endangered species that may occur in the covered area include the interior least tern (*Sterna antillarum*), black-footed ferret (*Mustela nigripes*), Kuenzler's hedgehog cactus (*Echinocereus fendleri* var. *kuenzleri*), Pecos gambusia (*Gambusia nobilis*), Sneed pincushion cactus (*Coryphantha sneedii* var. *sneedii*), Noel's amphipod (*Gammarus desperatus*), Koster's springtail (*Juturnia kosteri*), Pecos assiminea snail (*Assiminea pecos*), and Roswell springsnail (*Pyrgulopsis roswellensis*). Federally threatened species that may occur in the covered area include the Pecos bluntnose shiner (*Notropis simus pecosensis*), Pecos sunflower (*Helianthus paradoxus*), Lee pincushion cactus (*Coryphantha sneedii* var. *leei*), gypsum wild-buckwheat (*Erigonum gypsophilum*), and Mexican spotted owl (*Strix occidentalis lucida*). However, due to differences in habitat requirements between most of these listed species and the two candidate species in this conservation agreement, the LPC and DSL, it is unlikely that lands occupied by federally listed species will be enrolled in an agreement.

A reintroduced population of the Northern Aplomado Falcon (*Falco femoralis septentrionalis*) has been designated as nonessential experimental within New Mexico and Arizona according to section 10(j) of the ESA. In recent years, individual falcons have been observed in the western portion of the covered area (T. Allen, BLM, personal communication). It is not anticipated that

Northern Aplomado Falcons will occupy lands enrolled in a conservation agreement due to differences in habitat requirements between this species and the SDL and LPC.

Another candidate species known to occur within the covered area is the Texas hornshell (*Popenaias popeii*). The Texas hornshell is a freshwater mussel known only to occur within the Black River, Eddy County, New Mexico.

Environmental Impacts

Under the Proposed Action, candidate species would benefit directly from the conservation measures implemented on lands enrolled under the CCA. However, the effects to federally listed species other than LPC and SDL may be similar to those under the No Action Alternative. Participating cooperators would collaborate with the BLM, FWS, and CEHMM to develop measures to minimize impacts from their energy development activities and livestock grazing on the SDL or LPC.

Conservation measures to benefit the LPC would include, but not be limited to: improving habitat and increasing populations through appropriate vegetation treatments, decreasing habitat fragmentation, propagating and releasing and/or translocating individuals, and conducting research conducive to adaptive management of the LPC. Measures to benefit the SDL would include, but not be limited to: maintaining existing habitat, preventing further habitat fragmentation, and conducting research conducive to adaptive management practices for the SDL.

Both species would benefit from less habitat fragmentation, less disturbance in occupied or suitable habitats, restoration and enhancement of otherwise unsuitable habitat, and protection of large blocks of contiguous habitat. Participating cooperators would have an incentive to contribute to the protection and management of the SDL and LPC. This incentive would be the likelihood that their operational activities, on lands enrolled under the conservation agreements, would not be disrupted in the future if the SDL or LPC was listed under the provisions of the ESA. BLM cannot, at this time, quantify the precise benefits to LPC and SDL because it is unknown how many CPs will be established and what habitat improvement projects CEHMM will be able to complete. BLM or CEHMM will provide that data to the public when it becomes available.

Under a CCA, in the event the LPC and/or SDL become listed under the ESA, the participating cooperator would receive a high degree of certainty that the biological opinion would be unlikely to change from the conference opinion. As a result, it would be unlikely that more stringent restrictions or additional conservation measures would be required on Federal lands. The participating cooperator would continue working under the terms of the CP without having to cease operations while Section 7 consultation is completed.

The No Action Alternative would result in continued management and protection of federally listed, proposed, and candidate species within the covered area through existing Federal regulations, laws, and policies. These existing regulations, laws, and policies may not be sufficient to prevent the listing of candidate species under the ESA without the voluntary cooperation of additional stakeholders. Reclamation efforts on abandoned pads, roads, and caliche pits on lands or minerals managed by the BLM would continue to reduce habitat fragmentation, restore native habitat, and promote LPC and SDL conservation. Effects to candidate species would continue to be analyzed on a case-by-case basis with limited opportunity to manage their conservation from a landscape level. Federally listed, proposed, and candidate species would not benefit from additional conservation measures implemented under a conservation agreement (CCA). Any future proposed activities that may affect a listed species within the covered area would undergo Section 7 consultations under the ESA.

5. Land Use and Ownership

Affected Environment

Lands within the seven counties covered under the CCA and CCAA can be divided into three general surface ownership categories; Federal, State, or private. Specifically, the BLM has surface ownership of approximately 3 million acres (19%), the state of New Mexico has 2.8 million acres (19%), and private landowners have 9 million acres (59%). The BLM also has management responsibilities for an additional 10 million acres of mineral estate where the surface is either private or state owned. The U.S. Forest Service, National Park Service, and U.S. Fish and Wildlife Service combined have less than 3% of the lands within the covered area.

Land use within the covered area includes energy development activities, recreational use, livestock grazing, and agricultural activities. Energy development activities include the drilling of oil and gas wells, the development of infrastructure (i.e. roads, powerlines, and pipelines) associated with oil and gas production. For the purposes of this conservation agreement, energy development relates to activities occurring on Federal minerals that may be occurring over state, federal, or private lands. Recreational use within the covered area includes OHV use, hunting, fishing, hiking, watchable wildlife, and camping. Livestock grazing occurs on 600 federal allotments comprising approximately 6.8 million acres of mixed land ownership within the covered area. Agricultural fields on private lands within the covered area are typically planted in corn, milo, alfalfa, or cotton.

Environmental Impacts

Under the Proposed Action, the approval and implementation of a CCA would give Federal lessees, operators, and permittees (participating cooperators) an opportunity to receive a high degree of certainty under the CCA that more stringent restrictions or additional conservation measures would not be required of them in the event the SDL and LPC become listed under the ESA. By enrolling in a CP, energy development and livestock grazing by participating

cooperators would likely continue under the conditions of their CP without the additional requirements of a new Section 7 consultation. This would keep them from being delayed while the new consultation is being completed (i.e. up to 145 days). In addition, participating cooperators would gain public relations benefits from their contributions towards candidate species conservation. This alternative would provide an opportunity for the BLM and FWS to manage land use impacts to listed or candidate species on a landscape level.

Under the No Action Alternative, there would continue to be little incentive for Federal lessees, operators, and permittees to engage in the voluntary, proactive conservation of candidate species. Federal lessees, operators, or permittees would continue to be concerned about the potential regulatory implications of having these species on their land. This atmosphere would continue to inhibit cooperation and collaboration regarding the conservation of candidate species. Reclamation efforts on abandoned pads, roads, and caliche pits on lands or minerals managed by the BLM would continue to reduce habitat fragmentation, restore native habitat, and promote the conservation of LPC and SDL habitat. Energy development, and livestock grazing, on lands containing candidate species would have the potential to be delayed or restricted as a result of section 7 consultation requirements should these species eventually become listed under the ESA. If these species become listed, there would be no certainty that additional restrictions would not be assessed on these lands.

6. Areas of Critical Environmental Concern

Affected Environment

There are two Areas of Critical Environmental Concern (ACEC) within the project area, the Mescalero Sands ACEC and the LPC Habitat Preservation ACEC. Both ACECs are closed to future oil and gas leasing and the disposal of salable minerals. The ACECs are also both designated as major rights-of-way exclusion areas.

The Mescalero Sands ACEC is 10,007 surface acres and 7,931 acres of federal mineral estate. Surface ownership consists of 7,888 acres Public land; 1,799 acres State land; and 320 acres private land. No additional range improvements or vegetation treatments geared toward livestock production are permitted in the ACEC. An area of 2,438 acres, including the area with no grazing preference, is designated as closed to off-highway vehicle (OHV) use. In the remainder of the ACEC, OHV is limited to existing roads and trails.

The LPC Habitat Preservation ACEC is 57,082 surface acres and 46,902 acres of federal mineral estate. Surface ownership consists of 50,830 acres public land; 4,353 acres State land; and 2,352 acres private land. While the ACEC is closed to future oil and gas leasing, there are current active leases in a portion of the ACEC. Those leases will be developed in accordance with prescriptions applicable to the Core Management Area, as found in the 2008 RMPA. The south half of the ACEC is currently allotted for livestock grazing. However, if a permittee should wish to voluntarily relinquish grazing on the ACEC, the BLM will close that allotment to any future

permitted livestock grazing but will retain the right to use livestock grazing as a vegetation management tool should the need arise. Livestock grazing in the north half of the ACEC has been voluntarily relinquished. OHV use in the ACEC is limited to existing roads and trails.

Environmental Impacts

Under the Proposed Action, the CCA would provide the opportunity to increase conservation measures within the ACECs. That opportunity will be more noticeable in the LPC Habitat Preservation ACEC, where active oil and gas leases still operate. By enrolling in a CP, the lessees, permittees and operators within the ACEC will most likely be able continue their operations for the duration of their lease.

Under the No Action Alternative the ACECs would continue to be managed according to the 2008 SSS RMPA. As stated before, there would be no additional incentive for federal land users to engage in conservation activities for the LPC and SDL.

7. Socio-Economic

Affected Environment

The affected environment has been previously described in the 1997 Roswell RMP and the 2007 Special Status Species Proposed RMPA/Final Environmental Impact Statement. No significant changes to local conditions have occurred since that time.

Environmental Impacts

A discussion of the impacts of both the proposed action and the No Action alternative can be found in the 2007 Special Status Species Proposed RMPA/Final Environmental Impact Statement. The 2008 Special Status Species Final RMPA/Final Environmental Impact Statement states "BLM will support the use of Candidate Conservation Agreements (CCAs) to support the recovery of the lesser prairie-chicken and sand dunce lizard."

IV. Cumulative Impacts

Cumulative impacts include the combined effect of past activities, specific planned projects and other reasonably foreseeable future actions that are reasonably certain to occur within the project area. The BLM must determine whether impacts of the proposed action, in this case the approval and implementation of the CCA through Certificates of Participation, when taken together with other actions would result in a significant environmental impact.

Ongoing activities within the project area such as oil and gas development and livestock grazing would continue to have impacts on the resources identified and analyzed in this environmental assessment, with or without the approval and implementation of a CCA. However, the conservation measures proposed in the Proposed Action (CCA) when considered in addition to

those recently approved in the 2008 SSS RMPA would have net beneficial impacts to all of the resources, specifically the SDL and LPC.

Potential adverse cumulative effects may occur throughout the project area should the CCA not be entered into. All actions which may occur in the area, including foreseeable non-Federal actions (occurring on state and private lands) may result in cumulative adverse impacts of resources identified and analyzed in this environmental assessment.

Land use practices such as additional oil and gas production would increase overall surface disturbance whether or not the CCA is implemented. However, when proper reclamation of abandoned oil pads and associated disturbance are followed by adequate precipitation, vegetation responds favorably. These acreages would typically recover naturally in three to five growing seasons. Habitat changes facilitated by cattle grazing can influence resource availability and habitat selection for associated wildlife. When proper stocking rates, pasture rotation, and well-managed grazing methods are adhered to, vegetation could be manipulated in a manner advantageous to associated wildlife.

By its very nature, implementation of this CCA would reduce overall surface disturbance due to various land use practices. These cumulative beneficial impacts would serve to minimize or completely eliminate some of the threats to the SDL and LPC. If a significant number of the threats are addressed, this has the potential to positively impact the status of the species before listing decisions on these species are made in the future.

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VI. Persons and Agencies Consulted

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